

**ARIZONA JUDICIAL COUNCIL'S  
LIMITED JURISDICTION COURTS COMMITTEE**

**Arizona State Courts Building  
Conference Room 345A & B  
Phoenix, AZ 85007**

**May 22, 2002**

**Members Attending:**

Honorable R. Michael Traynor, Chair  
Honorable George Anagnost  
Ms. Kathy Barrett  
Ms. Faye Coakley  
Honorable Sherry Geisler  
Honorable John Kennedy  
Mr. Don Jacobson  
Mr. Theodore Jarvi

Ms. Pam Jones  
Honorable John Lamb  
Honorable Michael Lester  
Honorable Ronald O. McDaniel  
Honorable G.M. Osterfeld  
Mr. Dale Poage  
Honorable Antonio Riojas, Jr.  
Mr. Paul Thomas

**Absent Members:**

Honorable Judy Ferguson (excused)  
Honorable Manuel Figueroa (excused)

Mr. Ben Rowe (excused)  
Hon. Mary Scott (excused)

**Guests:**

Ms. Penny Martucci

**Staff:**

Mr. Todd Adkins  
Ms. Theresa Barrett  
Mr. George Diaz, Jr.  
Ms. Agnes Felton  
Ms. Debby Finkel  
Ms. Jennifer Greene  
Ms. Debra A. Hall  
Mr. Karl Heckart

Ms. Lori Johnson  
Ms. Nina Preston  
Mr. David Sands  
Mr. Bob Schaller  
Ms. Janet Scheiderer  
Ms. Nancy Swetnam  
Ms. Amy Wood

**REGULAR BUSINESS**

**1. Call to Order**

Judge R. Michael Traynor called the meeting to order at 10:15 a.m. Judge Traynor stated that he received a number of responses to his questions about improving LJC meetings. He is forming an executive committee consisting of the chairman, vice-chairman, and subcommittee chairmen. This committee will meet in between regular LJC meetings to review potential agenda items and new projects with the intent of learning more about them prior to LJC meetings. The information will be shared with LJC members.

## **2. Approval of Minutes from the February 20, 2002 Meeting**

Judge Traynor asked if there were any changes or corrections to the February meeting minutes. None were made.

**MOTION:** Motion was made and seconded **to approve the minutes from the February 20, 2002 meeting as presented. The motion was passed unanimously. LJC-02-06**

## **INFORMATION/POTENTIAL ACTION ITEMS**

### **3. Legislative Update**

Mr. George Diaz, Jr., Mr. David Sands and Mr. Todd Adkins presented an overview of the AJC package and the status of each of those proposals.

HB 2358-passed-extends the term of pro tempore judges from six months to one year.

SB 1050 amended onto SB 1394 was run by the governor. It removes fee for serving orders of protection or injunctions. It had failed but was expected to have a motion to reconsider and may be revived. Six million dollars in federal funding is in jeopardy.

SB 2354-failed-was the DROP plan for staff retirement.

SB 1049-failed-Records Retention. It was amended onto HB 2289 as was HB 2345.

HB 2289-passed and signed-is now the courts fee and records retention bill. Parking is exempt from the \$5 probation surcharge. The \$20 time payment fee is extended until 12/31/09. Bond envelopes need to be revised to reflect the new 80% surcharge (including the 3% for DNA), the \$5 probation surcharge and clean-up of §§ 22-281 and 22-404.

SB 1396-passed-establishes a DNA fund and a 3% surcharge to go to the DNA fund.

HB 2298-passed-mandates defendants reimburse city/county for incarceration costs. There is no priority of payments for this in statute. An order show cause can be issued for failure to pay which is dischargeable by jail time.

HB 2340-pending, but probably will not pass. This would offer protection for judicial officers.

HB 2452-passed- "Steven's Bill" which is racing on highways. Increases fines and reclassifies them A 1st violation is a minimum fine of \$250 with possible community service. A 2nd violation has a minimum fine of \$500 and possible

community service and 10 days in jail.

HB 2467-passed-liquor age restrictions has exceptions for religious and medicinal purposes.

SB 1124-failed-JP reform bill

HB 2478-failed-MVD impound bill

#### **4. Arizona Code of Judicial Administration-Private Process Server**

Ms. Nancy Swetnam stated that the Committee on Superior Courts (COSC) recommended passage of this code with some amendments. The new code incorporates General Rule 1. The substantive changes include that renewal of the certification has no examination requirement.

Ms. Swetnam explained that writing and validating examinations are expensive processes. The certification fees are kept by the counties. The Supreme Court has no funding for exams nor their development. Other similar programs have initial examinations and continuing education requirements. The code as it is drafted has no provision for continuing education. The superior court presiding judge and clerk will monitor the process servers.

Ethics standards are now part of the code. COSC recommended some definitions and clarification.

**NOTE: Since the LJC packets did not have the full code, Ms. Swetnam was asked to provide them and to return later in the day to complete the discussion and for a motion to be made. Ms. Swetnam presented again after the New Judge Orientation Revision/Review Section. Minutes of the discussion and motion continue on page 5.**

#### **5. Plate-to-Owner Implementation**

Ms. Penny Martucci, MVD, presented an update on the new plate and fee to owner legislation. As of January 1, 2002, license plates and unexpired fees on those plates remain with the original owner. The owner has 30 days to either transfer the plate to a different vehicle or turn it in to MVD or transfer the plate to a 3rd party.

When someone buys a vehicle from an individual, no plate accompanies the vehicle. A plate from a previous vehicle cannot be affixed until the title is processed. A temporary 3-day restricted permit must be purchased in order to drive the vehicle. Fifteen days are allowed to transfer the title.

Another change is that the lien holder maintains the ownership of the title. MVD will not release the title until the lien holder informs them to do so.

## **6. Defensive Driving Subcommittee**

### **Alternative Delivery Methods for Defensive Driving Schools**

Mr. Bob Schaller updated LJC on the status of alternative delivery methods. For identification and validation purposes, the standard for Arizona is on-site testing of participants after they complete an internet or other alternative course. However, applicant schools are free to propose other methods that may be approved if they meet the same standard. No alternative delivery schools have been certified, but there are 7 that have applied and are being reviewed.

## **Lunch Break**

## **7. New Judge Orientation Revision/Review**

Judge John Kennedy stated that a review committee was convened by the Chief Justice to review New Judge Orientation (NJO). The committee is comprised of a broad spectrum of people. The intent is to improve NJO. The current schedule for training is:

3 days - orientation for new judges who are non-law trained  
1 week - all new judges (January of each year)  
4-5 days - all new judges (April of each year)  
3 days - Legal Institute for all new judges

A revised proposed schedule was distributed that no longer separates non-lawyer and lawyer judges in training and makes other organizational changes. The outline depicts core needs/foundations and then type of case categories. There is the potential of standardized lesson plans and possibility of videotapes. The intent is to have measurable objectives that will show competency before the judge is allowed to hear some types of cases.

There is currently no method to enforce what happens if a judge does not pass a core component. However, if there is a real issue with a judge, then the Commission on Judicial Conduct may be called in. The court will be considering this issue.

Ms. Agnes Felton stated that interim training will be offered to assist judges who take office mid-year. They will still be required to go through NJO.

## **8. Arizona Code of Judicial Administration-Private Process Server (Continued from Page 3)**

This issue was brought back to the group. Judge Traynor asked if Statement 2 should include timely or notification of inability to serve?

Mr. Ted Jarvi recommends that there be an annual education requirement of eight hours. Ms. Kathy Barrett suggested that the education requirement be ten hours and related to the service of process.

Questions were raised about Section H "Complaints". Ms. Swetnam stated that the Code of Conduct section is new.

Judge George Anagnost suggested adding that the process server ask if the court has a protocol concerning service in the court building.

Judge Anagnost stated that on page 19, the appeals section refers to superior court. He suggested changing the header name to "Appellate Review."

**Motion:** Motion made and seconded that **the ACJA on Private Process Servers be adopted with the recommended changes that include: 1) timely service or notification of inability to serve; 2) an annual ten hour educational requirement related to the service of process; 3) the process server be required to ask the court if there is a protocol concerning service in the court building; and, 4) changing the appeals section header name to "Appellate Review."** The motion was passed unanimously.  
**LJC 02-07.**

## **9. Jury Practices Committee**

Ms. Theresa Barrett stated that the committee has a copy of the preliminary report. The committee, composed of superior and limited jurisdiction court judges and administrators, jury commissioners, a clerk of court and public members, was established to examine and make recommendations on a variety of jury issues. The committee reviewed the work of the original jury practices committee in order to assess what still needed to be done. It was determined that more work needed to be done streamlining the administrative process statewide.

The committee met several times and reviewed the previous committee's recommendations.

A) *Add more source lists to improve the quality of the master lists - Maricopa County conducted two tests. Both were inconclusive. The resulting recommendation was to not add to the lists at this time, but to review this issue periodically.*

- B) *Centralize jury list preparation – More time was needed to evaluate the results of the merge/purge test conducted by Pima and LaPaz Counties. There were less people on the LaPaz’s master list because Pima County’s jury office screened out duplicate names better. The day-to-day process of maintaining a centralized list is too onerous for one county. Moreover, creating a state office would be difficult due to financial constraints. The committee plans to recommend to continue discussion of centralization and monitor the specific data obtained by LaPaz County’s jury office.*
- C) *Enforcement of summonses– The committee’s preliminary recommendation stands. Jury commissioners need to follow ARS § 21-331(B) which requires sending a second notice.*
- D) *Excuse/deferral policy – Guidelines are being developed.*
- E) *Juror Pay – Preliminary recommendation remains unchanged due to the state budget situation. It was clarified that the committee still considers juror pay a high priority and recommended that juror pay be revisited in future legislative sessions.*
- F) *One-day/one-trial – A one day seminar on this topic will be presented at the October Judicial Staff Conference. In addition, language mandating implementation of one day/one trial, unless good cause can be shown, will be included in the ACJA code section being drafted for jury management standards.*
- G) *Juror bill of rights – No substantive changes.*
- H) *Juror anonymousness – No change.*
- I) *Jury management manual – Being developed.*
- J) *Jury management standards – Being developed.*
- K) *Public Service Announcements – Unchanged.*

*The final report will be presented to AJC in October. The interpreters issues have not been addressed.*

When asked about summoning jurors by geographic area, Ms. Barrett stated that Maricopa County had recently implemented a process for summoning jurors by geographic location. It was noted, while the new process should reduce the number of jurors summoned to a superior court location with a longer commute time than another location, it will not eliminate this problem completely.

Maricopa County's Jury Office hopes this will make jury service more convenient for jurors and reduce the amount of mileage costs paid to jurors. Judge Traynor asked Ms. Barrett to update LJC at the September meeting.

## **10. Management Information**

Ms. Amy Wood and Mr. Robert Roll stated that they are in the process of working to create visual representations of useful management information to build on the Judicial Dashboard. Some of the reports that are already available include:

- \* case mix and validity errors for one court or the same court in comparison to all courts at the same court level
- \* case aging for one judge or the same judge in comparison to all judges at the same court level
- \* data clean up reports.

Ms. Wood and Mr. Roll are interested in receiving input from judges and court administrators regarding automated as information tools concerning the court's status in terms of content as well as "look and feel". Ms. Wood and Mr. Roll also discussed some proposed management reports. General areas include case aging, high level financial information and warrants. These reports are geared for court use and not for public use. They requested that all ideas and lists of requested reports be sent to them.

## **11. Forms and Rules Subcommittee**

### **Proposed Changes to Rules 7.2B and 30**

Judge George Anagnost stated that the LJC members were sent copies of Rule 7.2A, before conviction, Rule 7.2B, after conviction, statutes regarding bail (ARS § 13-3961, 13-3961.01, 13-3962 and 22-372) and three additional related Rules 7.2, 31.6 and 30. He further stated that changes to Rule 7.2B2 may impact Rule 30.3.

The standards of release in proposed 7.2B2 is consistent with ARS §13-3961. The post conviction standard is the threat to flight or re-offend. One obvious change is that the release is at the motion of the state and not the court.

Concern was expressed regarding the difference in philosophy about proposing change, especially in domestic violence cases. Concern was also expressed regarding how to cover the time from trial to appeal where the defendant may pose a threat to the victim. Conviction is another catalyst for the defendant to pose a threat.

Judge Lester stated that the concern is with felony turn down cases. It is a small percent of cases, but those are the cases this change is meant to assist with. Maybe language regarding the community should be added.



Judge Traynor suggested adding language about absconding. Judge Anagnost stated that language in ARS §13-3961 about “upon oral motion of the state” is not in the Rule. The current rule does not address the discovery that there is a dangerous defendant. That element does not come into play until an appeal has been filed. In addition, there is no right of appeal if the defendant pleads guilty which adds another complication. The question arose concerning whether conviction alone gives clear and convincing evidence of threat of flight. Judge Traynor stated that he prefers the felony model for after-conviction release.

Judge Mike Osterfeld recommended amending the proposed Rule 7.2B2 by ending the 1<sup>st</sup> sentence after “condition of release.” He suggested striking the remainder of the sentence.

**Motion:** Motion was made and seconded to **strike “when it appears...” and “Any request...”**

Discussion ensued concerning what is standard and what is good cause. Members reached consensus that a finding is needed on record.

**Motion:** Motion was made and seconded to **table this issue until the September 25<sup>th</sup> meeting. Motion passed unanimously. LJC 02-08.**

Concern was expressed about Rule 30 and work that needs to be done to make Rules 30 and 7.2B consistent with each other.

Judge Anagnost asked for volunteers to participate in a conference call on cleaning up the Rule 7.2B issues and look at Rule 30. Judges Lester, Kennedy, McDaniel, Riojas, Osterfeld and Traynor volunteered as well as Mr. Paul Thomas and Mr. Ted Jarvi. A July date will be chosen.

## **12. Strategic Planning Subcommittee**

### **Court Interpreters**

Ms. Janet Scheiderer stated that courts have expressed concern regarding the number and quality of interpreters. In addition, the AZ Minority Judges Caucus recommended looking at certification and standardization.

The AJC agreed with the AZ Minority Judges Caucus to appoint a committee to study the issues in depth. Kathy Barrett, Judge Lex Anderson, Ron Beal and Judge Fran Cota represent limited jurisdiction courts.

Tucson Municipal Court has a telephonic interpreter project.

## Centralized Ticket Processing

Ms. Scheiderer reported that AJC requested that AOC staff research centralized ticket processing. A presentation was made to AJC in March.

Maricopa County Supervisor Stapley recognized the growth in the county and the potential there is for additional justice courts. New justice courts cost about \$1 million each. He asked the AOC for alternative ways of processing work through the courts.

HB 2345 which became HB 2289 had some funding built in to assist more with adding staff through Judicial Collection Enhancement Funds (JCEF).

Connecticut, Illinois, Maine, Missouri, Vermont and Maryland all have centralized collection programs. Chicago's system is privatized and only on parking violations. Maine, Missouri, Vermont and Maryland use a bank. Connecticut uses a combination of methods.

The thought is that city or county would decide which cases would be sent to the central ticket processing entity. Cases in which a plea of guilty or responsible is entered probably would be sent. Cases where pleas of not responsible is entered, a hearing would be set.

The cost for this program ranges from location to location from \$2.84 per citation in Connecticut to \$9.10 in Vermont.

The advantages to having centralized citation processing:

- \* Reduces administrative burden from courts and clerks.
- \* Allows clerks to work with more complex matters and with people.
- \* Fine schedules would have to be more uniform.
- \* Increases collection rate.
- \* Saves law enforcement time by sending all citations to one place for processing.
- \* Rural courts who do not use a variety of payment methods will benefit because the bureau would be able to take in credit card payments as well as other types.
- \* Defendants would have one phone number to call.
- \* Improved customer service at the court and at the centralized processing center.

License suspensions would go through the center as would payments. The courts would still receive the money for fines/fees and local costs.

The question was asked regarding cases where there is judicial interface. No determination has been made as yet.

Mr. Karl Heckart stated that some preliminary discussions have taken place with IBM.

Judge Kennedy asked about start-up costs. Ms. Scheiderer said that the decision has not been made if the project will be in-house or privatized. If privatized, then an RFP will be written. Mr. Heckart stated that DPS is talking about a new system, ITRAX, and they are also looking at handheld electronic citation devices which would transfer the data without needing additional data entry.

Ms. Scheiderer stated that initially the project will focus on civil traffic violations.

Ms. Kathy Barrett stated that Mesa is just ending a project in which the police used handheld devices. The officers did not like the handheld. Their concerns were officer safety, the time it takes to generate the ticket and the impact AZ heat has on the equipment. She also expressed concern about some of the complexities, such as proof of insurance, proof of drivers license and proof of registration.

Judge Michael Lester stated that several courts have staff dedicated to opening mail and processing citations. Courts may lose staff. He also expressed concern about having uniform fines. Not all jurisdictions can afford to be as high or as low as others.

Concern was expressed about costs. There is no \$10 fee added. Where will the money to pay for this project coming from? If there is no fee added, then it comes from fine which then reduces it.

Both Judges Traynor and Lester thought that this project was to collect past due monies.

Mr. Heckart stated that standard data elements would have to exist. He also stated that IBM estimates it would cost \$3 per ticket.

Ms. Barrett asked how long it would take to get the citation from centralized entry point to the court for the judge to see?

Mr. Thomas asked what impact this would have on productivity credits. Ms. Scheiderer indicated there would be no impact.

Judge Kennedy asked what the efficiency factor is. He also asked if there has been an analysis about the needs of the rural courts. He wanted to know if there is a list of priorities to help the courts' efficiency, proficiency and service.

Ms Scheiderer stated that 1/3 of defendants pay, 1/3 come to court and the last 1/3 have no action. Questions were asked about what happens to criminal and hybrid cases and if the project addresses the 2<sup>nd</sup> wave of collections.

Ms. Scheiderer stated that AJC wants this project to move forward. AOC needs to address several of the issues brought up by LJC, do a cost analysis as well as a work flow analysis.

**13. Timetable for Future AZTEC Roll-outs  
Implications for Change Deadlines**

Mr. Karl Heckart stated that AZTEC 1.0 is in the final testing stage and will go to pilot in June and rolled out statewide during the summer. There is a meeting the week of May 27<sup>th</sup> to set the priorities for version 1.5. If changes are needed in this version, the requests must be made immediately. This version is due out during the 1<sup>st</sup> quarter of FY 2003. AZTEC 2.0 is due out the end of 2003.

The superior court clerks of court standardized their coding system.

Mr. Heckart suggested that there be a session scheduled for him just to talk to LJC members, regardless of whether they are ACAP. This would help him with the flow of information.

**14. Public Access to Electronic Records Update**

Ms. Jennifer Greene stated that a subcommittee of the Public Access Committee is proposing to restrict access to petitions for orders of protection until the order has been served. The subcommittee, consisting of Judges Dorfman and Lex and Mr. Michael Grant, doesn't want to take a position on public access to the Court Protection Order Repository (CPOR).

The full Committee meets on June 4<sup>th</sup>. The 2<sup>nd</sup> final report is due to AJC in October. LJC would like Ms. Greene to report back at the September meeting.

The Committee is also reviewing the issue of Internet access to actual criminal case files which could interfere with law enforcement. Ms. Greene will bring LJC's concerns about the conflict with ARS § 13-2813 and data warehouse information to the Public Access Committee.

**15. Procedural Manual**

Ms. Debra Hall stated that there is a potential of a procedural manual for AZTEC courts being drafted. She asked for feedback. Consensus was that this is a good idea and should be pursued.

Judge Lester asked that a guide procedural manual be developed as well. Judge Anagnost asked if a self test for court operations was being developed. The manual goes hand-in-hand with this concept.

Judge Kennedy offered his staff's assistance and the use of his manuals.



## OTHER BUSINESS

### 16. Call to the Public

Judge Traynor called to the public. Judge Anagnost thanked Ms. Debby Finkel and Judge Traynor. Judge Traynor thanked Ms. Valerie Tillman for her assistance with this meeting.

### 17. Adjournment

**Motion:** Motion was made and seconded to **adjourn the meeting.**  
**Motion was passed. LJC 02-09.**

Meeting was adjourned at 4:30 p.m.

Respectfully submitted,

Ms. Debby Finkel  
Staff to the Limited Jurisdiction Courts Committee